

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

KEVIN RABY,

Plaintiff,

v.

UNKNOWN,

Defendant.

Case No.: C 13-3335 KAW (PR)

ORDER DENYING MOTION FOR
EXTENSION OF TIME AND DISMISSING
COMPLAINT WITHOUT PREJUDICE

Doc. no. 6

Plaintiff, a state prisoner incarcerated at Soledad State Prison, has filed a letter which was construed to be a *pro se* civil rights action pursuant to 42 U.S.C. § 1983, alleging the violation of his constitutional rights by prison medical staff. Plaintiff has consented to the jurisdiction of the undersigned United States Magistrate Judge over this action.

On the same day his action was filed, the Clerk of the Court sent Plaintiff a notice that he must file a complaint on the Court's civil complaint form and either pay the filing fee or submit a completed application to proceed *in forma pauperis*. Instead of filing a complaint and *in forma pauperis* application, Plaintiff filed a motion for an extension of time to file these documents. In the motion, he states that he did not intend to file a complaint by sending in his letter to the Court and that he is still exhausting administrative remedies. He requests an extension of 120 days in which to exhaust his administrative remedies.

The motion is denied and this action is dismissed without prejudice. When Plaintiff exhausts his administrative remedies, he may re-file a complaint in a new civil action.

CONCLUSION

For the foregoing reasons, the Court orders as follows:

1. Plaintiff's motion for extension of time is DENIED. Doc. no. 6.

1 2. This action is dismissed without prejudice. The Clerk shall enter judgment and close the file.
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3 IT IS SO ORDERED.

4 Dated: 10/11/13

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6 KANDIS A. WESTMORE
7 UNITED STATES MAGISTRATE JUDGE
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